

DEPARTMENT OF TRANSPORTATION

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November 19, 2009

To: Metropolitan Planning Organizations
Regional Transportation Planning Agencies
Local Transportation Commissions

Dear Executive Directors:

Subject: Notification for Cycle 11 under the Assembly Bill 1012 provisions of
"Use It or Lose It"

This correspondence serves as the official notification to the regional agencies of the "use it or lose it" provisions contained in Assembly Bill (AB) 1012 enacted in October of 1999. This notification marks the eleventh year that regional agencies have been required to comply with the "Use It or Lose It" provisions of AB 1012. Under these provisions, agencies are required to obligate federal funds within three years of receiving the apportionments. At this time, the balances subject to reprogramming on November 1, 2010, for this eleventh cycle for Federal Fiscal Year 2007/08 under AB 1012, totals zero.

As you are aware, when the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-Lu) was enacted on August 10, 2005, it contained a provision that authorized the Federal Highway Administration (FHWA) to rescind unobligated balances at the conclusion of the Act. This provision, in conjunction with later provisions included in the Energy Independence and Security Act of 2007 (EISA), resulted in a nationwide \$8.7 billion rescission of unobligated balances on September 30, 2009, across all federal programs. The State of California's share was approximately \$795.6 million and of this, the local agencies' share was approximately \$507.4 million. The methodology, applied by FHWA when rescinding the SAFETEA-Lu apportionments, was based in part on the oldest apportionments being rescinded first. As a result, there are no balances subject to reprogramming for this eleventh cycle (FFY 2007/08) for the Congestion Mitigation and Air Quality Improvement (CMAQ) program or the Regional Surface Transportation Program (RSTP) at this time. However, this could change if throughout the year there are project cost savings that result in the deobligations of funds that are older than three years. Should such cost savings occur, the deobligated funds would fall under within the provisions of AB 1012 and would be subject to reprogramming on November 1, 2010.

Another provision under AB 1012 is that regional agencies are required to submit a plan to the California Department of Transportation (Caltrans) to obligate apportionment balances older than two years and to ensure that none of the apportionment balances reach three years of age. Obligation plans should be submitted in electronic form to Caltrans' District Local Assistance Engineers no later than April 1, 2010. The template is available on the Local Assistance Web site at:

<http://www.dot.ca.gov/hq/LocalPrograms/>

We ask that no alterations, modifications or changes be made to the template. The obligation plans should include all federal funded projects that will be obligated between April 1, 2010 and the end of FFY 2009/10. The obligation plans will also be used to determine obligation authority (OA) needs for the remainder of the federal fiscal year, to review, prioritize and track projects, and to plan workload.

FHWA has not released the total OA for FFY 2009/10. OA has been provided by a Continuing Resolution. Currently, we have received \$280 million of OA in formula funds (this represent 31/365 days) for local agency use. Caltrans will provide an update on OA and apportionments balances when information becomes available.

If you have any questions about the notification or the report, please contact John T. Flores at (916) 654-4032 or Kenni-Marie Fitzgerald at (916) 653-9151.

Sincerely,



DENIX D. ANBIAH
Chief
Division of Local Assistance

Enclosures

- c: District Directors, Caltrans
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District Local Assistance Engineers, Caltrans
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